

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Stanna L Sperling,

Plaintiff,

v.

City of Tempe, et al.,

Defendants.

No. CV-24-01260-PHX-JFM

**ORDER**

This matter was assigned to Magistrate Judge James F. Metcalf. (Doc. 3). On September 25, 2024, the Magistrate Judge filed a Report and Recommendation with this Court.<sup>1</sup> (Doc. 19). The Magistrate Judge recommended that Defendants City of Tempe and Julie Schofield be dismissed from this action for Plaintiff's failure to timely serve

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<sup>1</sup> This case is assigned to a Magistrate Judge. However, not all parties have consented to the jurisdiction of the Magistrate Judge. Thus, the matter is before this Court pursuant to General Order 21-25, which states in relevant part:

When a United States Magistrate Judge to whom a civil action has been assigned pursuant to Local Rule 3.7(a)(1) considers dismissal to be appropriate but lacks the jurisdiction to do so under 28 U.S.C. § 636(c)(1) due to incomplete status of election by the parties to consent or not consent to the full authority of the Magistrate Judge,

**IT IS ORDERED** that the Magistrate Judge will prepare a Report and Recommendation for the Chief United States District Judge or designee.

**IT IS FURTHER ORDERED** designating the following District Court Judges to review and, if deemed suitable, to sign the order of dismissal on my behalf:

Phoenix/Prescott: Senior United States District Judge Stephen M. McNamee

1 them. To date, no objections have been filed.

## 2 STANDARD OF REVIEW

3 The Court “may accept, reject, or modify, in whole or in part, the findings or  
4 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C); see Baxter v.  
5 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991). Parties have fourteen days from the  
6 service of a copy of the Magistrate’s recommendation within which to file specific  
7 written objections to the Court. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72. Failure to  
8 object to a Magistrate Judge’s recommendation relieves the Court of conducting *de novo*  
9 review of the Magistrate Judge’s factual findings and waives all objections to those  
10 findings on appeal. See Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998). A failure to  
11 object to a Magistrate Judge’s conclusion “is a factor to be weighed in considering the  
12 propriety of finding waiver of an issue on appeal.” Id.

## 13 DISCUSSION

14 Having reviewed the Report and Recommendation of the Magistrate Judge, and no  
15 Objections having been made by any party thereto, the Court hereby incorporates and  
16 adopts the Magistrate Judge’s Report and Recommendation and dismisses Defendants  
17 City of Tempe and Julie Schofield.

18 Upon review of the docket, the Court notes that Plaintiff’s deadline to serve the  
19 remaining Defendant in this action, Corey Donald Woods, was October 16, 2024. The  
20 Magistrate Judge provided notice to Plaintiff of this deadline in an Order dated July 26,  
21 2024. (Doc. 17). No proof of service has been filed, and no summons obtained, for  
22 Defendant Woods. Accordingly, the Court finds it appropriate to dismiss Defendant  
23 Woods from this action. As there are no remaining named Defendants, this action is  
24 dismissed as a whole for Plaintiff’s failure to timely serve Defendants.

## 25 CONCLUSION

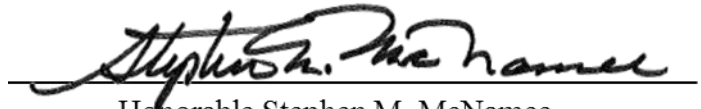
26 Accordingly, for the reasons set forth,

27 **IT IS ORDERED adopting** the Report and Recommendation of the Magistrate  
28 Judge. (Doc. 19).

1           **IT IS FURTHER ORDERED dismissing without prejudice** this action for  
2 Plaintiff's failure to timely serve Defendants as required by Federal Rule of Civil  
3 Procedure 4.

4           **IT IS FURTHER ORDERED directing** the Clerk of Court to close this case.

5           Dated this 21st day of October, 2024.

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8           Honorable Stephen M. McNamee  
9           Senior United States District Judge  
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